

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 10/11/2022

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUSTIN VEGA,

Plaintiff,

-against-

CITY OF NEW YORK, et al.,

Defendants.

21-CV-7262 (MKV)

ORDER

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff initiated this action by filing a complaint on August 27, 2021. [ECF No. 1]. On September 9, 2021, the Court granted Plaintiff's application for leave to proceed without prepayment of fees and directed Plaintiff "to promptly submit a written notification to the Court if Plaintiff's address changes." [ECF No. 5]. The Court warned Plaintiff that "the Court may dismiss the action if Plaintiff fails to do so." [ECF No. 5].

On July 8, 2022, Defendants filed a letter with the Court explaining that Plaintiff was released from State custody on or about March 31, 2022, and that Plaintiff had failed to provide the Court or Defendants with his current address. [ECF No. 27]. On August 31, 2022, this Court issued an order compelling Plaintiff to advise the Court of his current address by September 30, 2022. [ECF No. 28]. The Court warned that "[i]f the Plaintiff does not provide his current address this action may be dismissed without prejudice for failure to prosecute." [ECF No. 28]. The copy of the order sent to Plaintiff was returned to sender and, to date, Plaintiff has failed to notify the Court of his current address.

Federal Rule of Civil Procedure 41(b) authorizes a district court to dismiss an action "if the plaintiff fails to prosecute or to comply with the rules or a court order." *Baptiste v. Sommers*, 768 F.3d 212, 216 (2d Cir. 2014). It is settled that Rule 41(b) "gives the district court authority

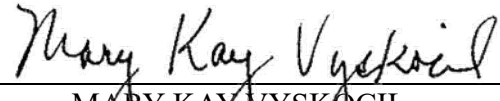
to dismiss a plaintiff's case *sua sponte* for failure to prosecute." *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). Dismissal without prejudice is appropriate here.

Accordingly, this action is hereby DISMISSED without prejudice for failure to prosecute.

The Clerk of the Court is respectfully requested to mail a copy of this order to the *pro se* Plaintiff at the address of record, to terminate the motion at ECF No. 26, and to mark this case as closed.

SO ORDERED.

Dated: October 11, 2022
New York, New York



MARY KAY VYSKOCIL
United States District Judge